

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Jonathan BERALL, M.D., M.P.H.,

Plaintiff,

vs.

VERATHON INC., et al.,

Defendants.

Civil Action No. 1:10-cv-05777-BSJ

NOTICE OF MOTION TO STAY

**VERATHON, INC.'S  
NOTICE OF MOTION TO STAY**

PLEASE TAKE NOTICE that, upon the annexed Declaration of Joel B. Ard, sworn to on November 16, 2010, and the exhibits thereto and, the accompanying memorandum of law, defendant Verathon Inc. will move, for an order staying the proceedings in this action on the grounds that

1. a stay pending resolution of Verathon Inc.'s Request for Ex Parte Re-Examination, U.S. Patent and Trademark Office Control No. 90/011,308, serves the interest of judicial economy and creates no prejudice to any party.

DATED this 16<sup>th</sup> day of November, 2010.

Respectfully submitted,

s/Richard C. Pettus  
Richard C. Pettus  
King & Spalding LLP (NYC)  
1185 Avenue of the Americas  
New York, NY 10036  
(212) 556-2130  
Fax: (212) 556-2222  
rpettus@kslaw.com

Richard T. Black, Admitted *Pro Hac Vice*  
Email: black@blacklaw.com  
Lawrence D. Graham, Admitted *Pro Hac Vice*  
Email: graham@blacklaw.com  
Joel B. Ard, Admitted *Pro Hac Vice*  
Email: ard@blacklaw.com

BLACK LOWE & GRAHAM<sup>PLLC</sup>  
701 Fifth Avenue, Suite 4800  
Seattle, WA 98104  
T: 206.381.3300  
F: 206.381.3301

Attorneys for Defendant  
Verathon, Inc.

To:  
David A. Loewenstein  
Pearl Cohen Zedek & Latzer, LLP (1500 B'way)  
1500 Broadway, 12th Floor  
New York, NY 10036  
(646) 878-0800  
Fax: (646) 878-0801  
Email: DavidL@pczlaw.com

Douglas J. Gilbert  
Pearl Cohen Zedek & Latzer, LLP (1500 B'way)  
1500 Broadway, 12th Floor

New York, NY 10036  
(646)878-0805  
Fax: (646) 878-0801  
Email: douglasG@pczlaw.com

Cc:  
Richard J. Basile  
Stetler & Duffy, Ltd.  
11 S. Lasalle Street, Suite 1200  
Chicago, IL 60603  
(203) 324-6155  
Fax: (203) 327-1096  
Email: rbasile@ssjr.com

Thomas Fisher  
Oblon Spivak  
1940 Duke Street  
Alexandria, VA 22314  
(703) 412-7023  
Fax (703) 413-2220

Michael Hugh Gibson  
Satterlee Stephens Burke & Burke LLP  
230 Park Avenue  
New York, NY 10169  
(212) 404-8726  
(212) 818-9606  
Email: mgibson@ssbb.com

Richard D. Kelly  
Oblon Spivak  
1940 Duke Street  
Alexandria, VA 22314  
(703) 412-7023  
Fax (703) 413-2220

James J. Kulbaski  
Oblon Spivak, McClelland, Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, VA 22314  
(703) 412-7023  
Fax (703) 413-2220

Andrew M. Ollis  
Oblon Spivak, McClelland, Maier & Neustadt, P.C.

1940 Duke Street  
Alexandria, VA 22314  
(703) 412-7023  
Fax (703) 413-2220